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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,368	09/12/2003	Anthony Joonkyoo Yun	PALO-001	6690
24353	7590	11/18/2005	EXAMINER	
BOZICEVIC, FIELD & FRANCIS LLP 1900 UNIVERSITY AVENUE SUITE 200 EAST PALO ALTO, CA 94303			GETZOW, SCOTT M	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/661,368	YUN ET AL.	
	Examiner	Art Unit	
	Scott M. Getzow	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 37-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53-62 is/are allowed.
- 6) ☒ Claim(s) 1-11, 18, 21, 24, 26, 30, 31-33, 37-52, 63, 64, 74, 76, 80 is/are rejected.
- 7) ☒ Claim(s) 12-17, 19, 20, 22, 23, 25, 27-29, 65-73, 75 and 77-79 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. Claims 1-11,18,21,24,26,30-33,37-39,63,64,74,76,80 are rejected under 35 U.S.C. 102(e) as being anticipated by King et al (2004/0210261).

The method steps of the above claims are considered to be encompassed by the normal workings of the device of King. Paragraph 27 of King teaches that by stimulating nerves that innervate the heart, a reduction in sympathetic activity can be achieved. Such nerves are considered to be 'cardiac nerve fibers' as set forth in applicant's claim 1. Further, paragraph 28 teaches that stimulation can be used to increase parasympathetic activity. Paragraph 40 teaches that the vagus nerve can be stimulated to increase parasympathetic activity. Re claim 24, 'aging associated conditions' is considered to be broad enough to encompass the conditions set forth in King. Re claim 64, sleep apnea of King is considered to be a sleep disorder; the mention of neurodegenerative condition in the last paragraph is considered to be redundant with the mention of neurodegenerative diseases in the penultimate paragraph of the claim. Re claim 76, the term 'autonomic dysregulation' is considered to be broad enough to encompass the conditions treated in King.

Claim Rejections - 35 USC § 103

2. Claims 40-44,48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al in view of Hill.

See previous office action.

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3. Claims 45-47,52 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al.

See previous office action.

Allowable Subject Matter

4. Claims 53-62 are allowed.

5. Claims 12-17,19,20,22,23,25,27-29,65-73,75,77-79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Since new rejections have been made, this action is not made final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Getzow whose telephone number is (571) 272-4946. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Scott M. Getzow
Primary Examiner
Art Unit 3762

SMG